IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 14356 of 2004

Between:

1. M.V. Poorna Chandra Rao S/o M. Rama Rao
R/o 48-12-24/1, Main road, Gunadala Vijayawada

Presently R/o D. o. 6-13-36, 13/1 Arandalpet, Guntur

..... PETITIONER

AND

1. Vijayawada Guntur Tenali and Mangalagiri Urban Development Authority, Vijayawada, rep by Vice Chairman.
2. Vijayawada Municipal Corporation, Vijayawada, rep. By its Commissioner.
3. Town City Planning Officer, Vijayawada Municipal Corporation, Vijayawada.

.....RESPONDENT

(Respondents 2 and 3 are impleaded as per Court Order dated 10.9.2004 in WPMP No. 20771 of 2004)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of mandamus or any other appropriate Writ or direction declaring the order of the respondent passed in Rc. No. C2-3829/2004 dated 5-8-2004 as illegal arbitrary and in violation of principles of natural justice

Counsel for the Petitioner:MR.O.MANOHER REDDY

Counsel for the Respondent No.1 : MR.P.M.GOPAL RAO

Counsel for Respondents 2 and 3 Mr. T.S. Venkataraman

The Court at the admission stage made the following :

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ORDER:

Heard the learned counsel appearing for both sides and at their request, the Writ Petition is being disposed of at the admission stage.

The petitioner is the owner of the premises admeasuring an extent of 610.35 Sq.Mts of land situated in R.S.No. 294/4, of Gunadala, Vijayawada. He made an application to the Commissioner, Vijayawada Municipal Corporation for construction of a building in the above said land, which was approved in B.A.No. 1974/2001 for construction of three-storied building in the said premises. After construction, there was a proposal for widening of Karl Marx Road, (Eluru Road) Vijayawada and in the said proposal an extent of 95.58 sq.mts of land belonging to the petitioner would be affected. It is submitted that the Government of Andhra Pradesh, Municipal Administration and Urban Development (M.II) Department has issued G.O.Ms.No. 33 MA dated 3.2.2001 giving certain incentives in terms of additional FAR/relaxation of

set backs/coverage to the persons who have surrendered the land free of cost for widening of any master plan road/zonal development plan road to facilitate the road widening programme being taken up by the municipal corporation. Subsequently government has issued G.O.Ms.No. 484 dated 1.11.2002 delegating the powers to the Vice Chairman to give incentives to the extent of G.O.Ms.No. 33 dated 3.2.2001. It is also submitted that the petitioner agreed to donate an extent of 95.58 sq. mtrs of land for the purpose of road widening without claiming any compensation. The said application has been placed before the V meeting of the Committee constituted under the provisions of G.O.Ms.No. 484 dated 1.11.2002 on 4.3.2004. The subject has been approved relaxing the coverage and set backs as per the G.O and plans were approved vide BP No. 66 dated 18.3.2004. At that stage on the complaint made by the neighbours of the building including the Municipal Corporator of the 36 Division seems to have submitted a petition against the proposed construction of the Community Hall. Therefore, the respondent herein issued the impugned order dated 5.8.2004 revoking the permission granted to the petitioner on 18.3.2004. Questioning the same, the present Writ Petition has been filed.

Respondent filed a counter stating that before giving the impugned order dated 5.8.2004, no notice whatsoever was given to the petitioner.

In view of the above, having regard to the fact that once the permission was granted on 18.3.2004 granting relaxation in terms of G.O.Ms.No. 33 dated 3.2.2001, the right was accrued by the petitioner to proceed with the construction and unless prior notice is issued, such a right cannot be infringed. In view of the fact that the respondent has not given any prior notice before revoking the permission, the same

is in violation of principles of natural justice.

Accordingly, the Writ Petition is allowed and the impugned order dated 5.8.2004 is set aside. The respondent is at liberty to issue notice informing the grounds on which it seeks to revoke the permission granted earlier on 18.3.2004. After filing objections, if any, by the petitioner and after hearing the petitioner, it is open for the respondent to pass appropriate orders according to law. No costs.

Ka 10.09.2004.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Vijayawada Guntur Tenali and Mangalagiri Urban Development Authority, Vijayawada
rep by Vice Chairman

2. 2CCs to the G.P. for Urban Development Authority, High Court Buildings, High

Court of A.P, Hyderabad

3.2CD copies

4. The Commissioner, Vijayawada Municipal Corporation, Vijayawada.

5. Town City Planning Officer, Vijayawada Municipal Corporation, Vijayawada.